

costs, by development or IHA-wide, that the IHA intends to undertake in each year of years two through five. In preparing these Work Statements, the IHA shall assume that the current FFY formula amount will be available in each year of years two through five.

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§ 950.110 Assistance from Indian Health Service and Bureau of Indian Affairs.

Because HUD assistance under this part is not limited to IHAs of Federally recognized tribes, provisions in this part relating to assistance from BIA or IHS, or to required approvals, actions, or determinations by these agencies in connection with such assistance, are applicable only to projects undertaken by IHAs of Federally recognized tribes or by regional housing authorities created by Alaska state law. These projects shall be developed promptly and operated in accordance with the provisions of this part and the Interdepartmental Agreement.

§ 950.115 Applicability of civil rights requirements.

(a) *Indian Civil Rights Act.* (1) The Indian Civil Rights Act (ICRA) (title II of the Civil Rights Act of 1968, 25 U.S.C. 1301-1303) provides, among other things, that no Indian tribe in exercising powers of self-government shall deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law. The ICRA also states these equal protection and due process rights do not apply if they violate customs, traditions, and practices of the tribe. The ICRA applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases in which an IHA has been established by exercise of tribal powers of self-government.

(2) For IHAs established pursuant to State law, HUD will determine the applicability of the ICRA on a case-by-

case basis. Factors considered may include the existence of recognized powers of self-government; the scope and jurisdiction of such powers; and the applicability of such powers to the area of operation of a particular IHA. Generally, determinations by HUD of the existence of recognized powers of self-government and the jurisdiction of such powers will be made in consultation with the Department of Interior-Bureau of Indian Affairs, and may be based on applicable legislation, treaties, and judicial decisions. The area of operation of an IHA may be determined by the jurisdiction of the governing body creating the IHA, any limitations within the enabling legislation, and judicial decisions.

(3) Projects of IHAs subject to the ICRA shall be developed and operated in compliance with its provisions and all HUD regulations thereunder.

(b) *Applicability of Title VI, the Fair Housing Act; and Title II of the Americans with Disabilities Act.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs; the Fair Housing Act (42 U.S.C. 3601-3619), which prohibits discrimination based on race, color, religion, sex, or national origin in the sale or rental of housing; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131) apply to those IHAs created by State law for which HUD has determined that the ICRA is inapplicable. Actions taken by an IHA to implement the statutory admission restriction in favor of Indian families in the MH program, as set forth in § 950.416, shall not be considered a violation of any provision of either Title VI, the Fair Housing Act, or Title II of the Americans with Disabilities Act.

(c) *Indian Housing Act of 1988—Mutual Help program admissions.* For provisions generally limiting admission to the Mutual Help Homeownership Opportunity program to Indians and requiring findings of need for admission of non-Indians, see § 950.416.

(d) *Disability.* (1) Under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, HUD is required to assure that no otherwise-qualified disabled person is excluded

from participation, denied benefits, or discriminated against under any program or activity receiving Federal financial assistance, solely by reason of his or her disability. IHAs shall comply with implementing instructions in 24 CFR part 8.

(2) The IHA shall comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157), and HUD implementing regulations (24 CFR part 40).

(e) *Minority Business Enterprise Development and Women's Business Enterprise Policy.* Executive Orders 12432 (3 CFR, 1983 Comp., p. 198) and 12138 (3 CFR, 1979 Comp., p. 39), respectively, apply to Indian Housing Authorities.

§ 950.117 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, IHAs shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* Residents who will not be required to move permanently, but who must relocate temporarily (e.g., to permit rehabilitation), shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent/utility costs.

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the housing, which may include a traditional home, to be made available for the temporary period;

(iii) The terms and conditions under which the resident may lease and occupy a suitable, decent, safe, and sanitary dwelling in the development following its completion; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* (1) A displaced person (defined in paragraph (g) of this section) shall

be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(2) A comparable Indian housing unit, project-based Section 8 housing, or a privately-owned dwelling made affordable by a Section 8 Rental Certificate or Rental Voucher, may qualify as a comparable replacement dwelling for a person displaced from an Indian housing unit.

(d) *Real property acquisition requirements.* The acquisition of real property for a development is subject to the URA and the requirements described in 49 CFR part 24, subpart B, whether the acquiring entity is organized under State law or tribal law.

(e) *Appeals.* A person who disagrees with the IHA's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the IHA. A lower-income person who is dissatisfied with the IHA's determination on his or her appeal may submit a written request for review of that determination to the HUD Area ONAP.

(f) *Responsibility of IHA.* (1) The IHA shall certify (i.e., provide assurance of compliance, as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the IHA to comply with the requirements in 49 CFR part 24.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However, such assistance also may be paid from funds available from other sources.

(3) The IHA shall maintain records in sufficient detail to demonstrate compliance with the requirements of this section.

(g) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit